

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

NATHANIEL DOWNING,

Plaintiff,

v.

PINE KNOLL CONSTRUCTION CO.,

and

JEFFREY JENKINS,

Defendants.

Case No. 5:17-cv-00098

**PLAINTIFF NATHANIEL DOWNING'S OBJECTIONS AND RESPONSES TO
DEFENDANTS' FIRST REQUESTS FOR PRODUCTION**

Plaintiff Nathaniel Downing ("Plaintiff" or "Mr. Downing"), by and through his attorneys, responds to Defendants' First Request for Production of Documents as follows:

- A. Plaintiff objects to any requests for information protected from discovery by the attorney-client privilege and/or the work product doctrine.
- B. Plaintiff reserves his right to supplement these responses.
- C. Plaintiff reserves his right to object to the admissibility in evidence of all or any part of the responses herein.
- D. The information supplied in these Responses is based solely on the knowledge of the executing party and their agents, representatives, and attorney, unless privileged.

OBJECTIONS AND RESPONSES



RECEIVED
APR 17 2018

REQUEST NO. 1 All documents identified in or otherwise responsive to your answers to Pine Knoll's First Set of Interrogatories propounded herewith and all documents reviewed or relied upon by you in preparing those answers.

OBJECTION:

RESPONSE: Please see attached documents, DOWNING 000001 - 000070.

REQUEST NO. 2 Any curriculum vitae of any expert witness consulted by you, or any expert witness expected to be called as a witness by you at trial in this matter.

OBJECTION:

RESPONSE: There are no such documents.

REQUEST NO. 3 All documents relating to your employment at Pine Knoll and/or relating to communications regarding your employment at Pine Knoll.

OBJECTION: Plaintiff objects to this request to the extent it seeks communications protected by attorney-client privilege. Plaintiff will not produce notes that constitute attorney work product.

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 4 All documents which support the allegations in the Complaint.

OBJECTION: Plaintiff objects to this request to the extent it seeks communications protected by attorney-client privilege. Plaintiff will not produce notes that constitute attorney work product.

RESPONSE: Please see attached documents, DOWNING 000001-000070.

REQUEST NO. 5 All communications with any Person regarding your employment with Pine Knoll from the time of your termination to the present.

OBJECTION: Plaintiff objects to this request to the extent it seeks communications protected by attorney-client privilege. Plaintiff will not produce notes that constitute attorney work product.

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 6 All documents which support your allegations in Paragraphs 17, 18, and 19 of the Complaint that Jenkins supervised you and/or had authority to set your work hours and/or assigned you leadership responsibilities and/or entrusted you to oversee other Pine Knoll employees on the construction projects on which you were assigned.

OBJECTION: Plaintiff objects to this request, to the extent it seeks documents already within the possession, custody, or control of Defendants, and the burden of production therefore outweighs the benefit.

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 7 All documents which support your allegations in Paragraphs 22, 23, 43, 44, 43, 45 and 46 of the Complaint.

OBJECTION:

RESPONSE: There are no such documents.

REQUEST NO. 8 Any and all documents which support your allegations in Paragraph 27 of the Complaint.

OBJECTION:

RESPONSE: Please see attached Declaration of Katherine Herrmann, DOWNING 000071 - 000073.

REQUEST NO. 9 All documents which support your allegations in Paragraph 28 of the Complaint that your work hours were immediately cut as a result of Tinia Downing's filing of a charge of race discrimination against Pine Knoll in April 2016.

OBJECTION: Plaintiff objects to this request, to the extent it seeks documents already within the possession, custody, or control of Defendants, and the burden of production therefore outweighs the benefit.

RESPONSE: Plaintiff has no such documents in his possession, custody, or control.

REQUEST NO. 10 All documents which support your allegations that the alleged actions by Pine Knoll and Jenkins set forth in Paragraphs 37, 38, 39, 40, 41, 42, 43, 44, 45 and 46 were retaliation for Tinia Downing's filing of a charge of race discrimination against Pine Knoll in April 2016.

OBJECTION: Plaintiff objects to this request, to the extent it seeks documents already within the possession, custody, or control of Defendants, and the burden of production therefore outweighs the benefit.

RESPONSE: Plaintiff has no such documents in his possession, custody, or control.

REQUEST NO. 11 All documents which support your allegations in Paragraphs 47, 48, 49, 50, 51, 52, 53 and 72 of the Complaint.

OBJECTION:

RESPONSE: Please see attached documents, DOWNING 000001 – 000070.

REQUEST NO. 12 All documents which support your allegations in Paragraph 62 of the Complaint.

OBJECTION:

RESPONSE: Please see Notice of Right to Sue, DOWNING 000004.

REQUEST NO. 13 All documents which support your allegations in Paragraphs 66 and 84 of the Complaint that evidence that you engaged in protected activity as stated in said Paragraphs.

OBJECTION:

RESPONSE: Please see attached Declaration from Katherine Herrmann, DOWNING 000071 - 000073.

REQUEST NO. 14 All documents which support your allegations in Paragraph 70 of the Complaint.

OBJECTION:

RESPONSE: Please see attached Declaration from Katherine Herrmann, DOWNING 000071 - 000073.

REQUEST NO. 15 All documents which support your allegations in Paragraph 71 of the Complaint.

OBJECTION:

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 16 All documents which support your allegations in Paragraph 73 of the Complaint.

OBJECTION:

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 17 All documents which support your allegations in Paragraph 76 of the Complaint.

OBJECTION:

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 18 All documents which support your allegations in Paragraphs 82 and 83 of the Complaint.

OBJECTION:

RESPONSE: Plaintiff has no such documents in his possession, custody, or control.

REQUEST NO. 19 All documents which support your allegations in Paragraph 84 of the Complaint.

OBJECTION:

RESPONSE: Please see attached documents, DOWNING 000001 - 000070.

REQUEST NO. 20 All documents which support your claims for any and all damages in the Complaint.

OBJECTION:

RESPONSE: Plaintiff intends to supplement this response.

REQUEST NO. 21 All documents referred to in Paragraph 91 of the Complaint that set forth the terms and conditions of your employment with Pine Knoll and your treatment by Pine Knoll.

OBJECTION: Plaintiff objects to this request, to the extent it seeks documents already within the possession, custody, or control of Defendants, and the burden of production therefore outweighs the benefit.

RESPONSE: Plaintiff has no such documents in his possession, custody, or control.

REQUEST NO. 22 Any and all documents evidencing communications with any Person regarding your employment with or for Pine Knoll throughout your employment with Pine Knoll.

OBJECTION: Plaintiff objects to this request as duplicative, as it is identical in all relevant respects to Request No. 3.

RESPONSE: Please see Plaintiff's Response to Request No. 3.

REQUEST NO. 23 All documents which support your allegations in Paragraphs 91, 92, and 93 of the Complaint.

OBJECTION:

RESPONSE: Please see attached documents, DOWNING 000001 - 000070.

REQUEST NO. 24 All documents which support any requested time off work by you during the course of your employment with Pine Knoll.

OBJECTION: Plaintiff objects to this request, to the extent it seeks documents already within the possession, custody, or control of Defendants, and the burden of production therefore outweighs the benefit.

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 25 All written communications between the Plaintiff and Pine Knoll from August 2015 through July 31, 2016.

OBJECTION: Plaintiff objects to this request, to the extent it seeks documents already within the possession, custody, or control of Defendants, and the burden of production therefore outweighs the benefit.

RESPONSE: Plaintiff has no such documents within his possession, custody, or control.

REQUEST NO. 26 All documents received by you in response to any subpoena or FOIA requests relating to this case.

OBJECTION:

RESPONSE: Please see attached documents, DOWNING000001 - 000068.

REQUEST NO. 27 All documents relating to all complaints (formal or informal) that Plaintiff has asserted against any employer that concern discrimination and/or retaliation during the five years prior to being hired by Pine Knoll through the present, including the complaints, all documents relating or referring to any investigations performed, the results of those investigations and the action or actions taken against the employer.

OBJECTION:

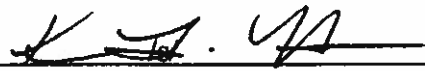
RESPONSE: There are no such documents.

REQUEST NO. 28 All documents relating to any lawsuit you have filed against employers of you concerning discrimination and/or retaliation for the five years prior to being hired by Pine Knoll through the present.

OBJECTION:

RESPONSE: There are no such documents.

Dated: April 12, 2018


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CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2018 I sent the foregoing via electronic and U.S. mail to the following:

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